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Of Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

THOMAS DUNCAN

Plaintiff

vs

**COSTCO WHOLESALE
CORPORATION**

Defendant

Case No. 3:23-cv-00172-HZ

CIVIL RIGHTS COMPLAINT

FIRST AMENDED

ORS 30.845

DEMAND FOR JURY TRIAL

1.

JURISDICTION AND THE PARTIES

According to defendant's notice of removal, this Court has jurisdiction under 28 U.S.C. § 1332 because the matter in controversy exceeds \$75,000 and the parties are citizens of different states.

2.

Mr. Duncan is a hardworking family man and a resident of Oregon.

1.

Mr. Duncan is Hispanic.

2.

Costco is a large corporation with annual revenue in excess of \$200 billion that conducts regular, sustained business activity in Multnomah County, Oregon.

3.

FACTUAL ALLEGATIONS

On November 25, 2022, Mr. Duncan went to the Costco store in Roseburg, Oregon to shop for Christmas presents for his kids. During Mr. Duncan's visit, Costco called the police on him with improper intent.

4.

Costco targeted Mr. Duncan for surveillance soon after Mr. Duncan walked into its store, and Costco spied on Mr. Duncan for no legitimate reason while Mr. Duncan was picking out Christmas presents for his kids. Mr. Duncan eventually asked Costco why he was being followed and watched. Costco gave no explanation.

5.

Then, while Mr. Duncan was considering a dollhouse for his daughters, two armed police officers appeared and told Mr. Duncan he had to leave. No one had asked Mr. Duncan to leave the Costco store prior to the police officers approaching Mr. Duncan. Mr. Duncan complied with the police officers and was publicly escorted out of the Costco store.

6.

As Mr. Duncan and the police officers approached the Costco store exit, a third police officer approached Mr. Duncan, took Mr. Duncan's identification, and ran a warrant check while onlookers passed by, while Mr. Duncan's car was publicly photographed. Costco refused to ever tell Mr. Duncan why he was being followed and spied on, or why Costco called the police on him.

3.

Costco's acts and omissions as alleged in this complaint were intentional, malicious, and showed a reckless and outrageous indifference to a highly unreasonable risk of harm and with a conscious indifference to the health, safety and welfare of others.

4.

CLAIM FOR RELIEF

– Violation of ORS 30.845 –

As alleged in this complaint, Costco violated ORS 30.845 by calling the police on Mr. Duncan with improper intent, to infringe on Mr. Duncan's rights under the Oregon or United States Constitutions, or unlawfully discriminate against Mr. Duncan, or cause Mr. Duncan to feel harassed, humiliated or embarrassed, or damage Mr. Duncan's reputation or standing within the community, or Mr. Duncan's financial, economic, consumer or business prospects or interests, causing Mr. Duncan mental suffering, emotional distress, humiliation, and inconvenience and interference with Mr. Duncan's normal and usual activities apart from activities in a gainful occupation, and injury to reputation, entitling Mr. Duncan to a judgment for noneconomic damages in an amount determined by the jury to be fair and reasonable, and reimbursed attorney fees, costs and disbursements in amounts to be determined by the Court. Mr. Duncan also requests judgment against Costco allowing punitive damages in an amount to be decided by the jury to be reasonable, not to exceed 1% of Costco's annual revenue, or \$2 billion, whichever amount is smaller.

5.

Request for jury trial.

6.

PRAYER FOR RELIEF

Mr. Duncan seeks relief against Costco as requested above, and for any other relief this Court may determine is fair. Mr. Duncan reserves the right to amend this complaint to adjust the claims for compensation and damages and to add claims and additional defendants. Some of the complaint's allegations are based in part on the memory of witnesses, which may later prove to be inaccurate in parts, and so the complaint may later be amended before trial to conform the allegations to the evidence obtained throughout the case. This complaint is made on personal knowledge as to Mr. Duncan's actions and based on information and belief as to the actions of others.

February 6, 2023

RESPECTFULLY FILED,

s/ Michael Fuller

Michael Fuller, OSB No. 09357

Lead Trial Attorney for Plaintiff

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CERTIFICATE OF SERVICE

I certify that I caused this document to be served on all parties by filing the document through the Official Court Electronic Document Filing System.

February 6, 2023

s/ Michael Fuller
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